



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

Michael O. Leavitt
Governor

Kathleen Clarke
Executive Director

Robert L. Morgan
State Engineer

Southwestern Region
585 North Main Street, Suite 1
PO Box 506
Cedar City, Utah 84721-0506
435-586-4231
435-586-2789 (Fax)

7 October 1999

J. Loren Nelson
Distribution Commissioner
PO Box 106
ENTERPRISE UT 84725

RECEIVED

OCT 12 1999

WATER RIGHTS
SALT LAKE

RE: REPORT OF UNAUTHORIZED DAM ON PINTO CREEK

Dear Loren:

I have tried to call you without success, so I am sending this request by letter. We have received a report from Mr. Mason Jones, President of the New Castle Reservoir Company, that a dam has been constructed on Pinto Creek on property belonging to Mr. Irvin Ence. Reportedly, the dam was constructed by drilling and blasting a rock ledge adjacent to the stream, then using a bulldozer to place the blasted rock in the stream and build an access road across the rock dam.

Could you please investigate this report and provide me with information regarding the accuracy of the report. We would like you to verify the location of the structure and, if possible, the party responsible for the work. It appears that this work has been accomplished without benefit of a Stream Alteration permit nor of the necessary water right applications and we need to begin compliance actions as soon as possible.

Thank you for your attention to this matter. Please call me at your earliest opportunity if you have questions or to report your findings.

Sincerely,

Kerry Carpenter, P.E.
Regional Engineer

pc: Lee Sim, Assistant State Engineer - Distribution
Daren Rasmussen - Stream Alteration Specialist

From: Kerry Carpenter
To: Daren Rasmussen, Lee Sim
Date: Fri, Oct 15, 1999 11:40 AM
Subject: ILLEGAL "DAM" ON PINTO CREEK

Daren & Lee:

You should have received recently a copy of a letter that I sent to our Distribution Commission, J. Loren Nelson, for the Beryl / Enterprise / New Castle area. I had asked him to investigate a complaint from the New Castle Reservoir Company (Mason Jones) against Irvin/Kay Ence. Today I received a written report from Mr. Nelson, along with some Polaroid photos and a map, confirming that the Ence brothers have in fact built an unauthorized dam on Pinto Creek. I will send Daren the originals of those materials via regular mail and will make copies for my records.

The dam is located about 1-1/4 mile above New Castle Reservoir, approximately South 2400' & West 1400' from the NE Corner of Section 34, T36S, R15W (USGS "New Castle" 7.5' quad). Although the dam was reportedly not intended to impound water (large rock fill with a "dirt" cap for vehicle crossing purposes), it is reportedly backing up water for about 700' above the dam.

The dam was constructed by Kay & Irvin Ence. We have the following addresses for them:

Irvin Ence / 65 East 200 South / IVINS UT 84738
Kay Ence / 80 West 100 South / IVINS UT 84738

Correspondence should also be copied to me and to J. Loren Nelson at PO Box 106 / ENTERPRISE UT 84725.

The Ence brothers are "nice guys", but they knew that a permit was required for this kind of work (Kay admitted that to Loren). However, they had access to equipment and didn't want to wait for the paperwork. I'm afraid we have no choice except to initiate an enforcement action and order them to remove the dam and restore the channel to its natural condition. With all the battles we've had on Pinto Creek, anything short of tripping the full hammer will only lead to further credibility problems for us in the future.

Please advise me if there is anything you believe I need to do in this regard.

Thanks,

Kerry Carpenter, P.E.
Southwestern Regional Engineer
nrwrt.kcarpent@state.ut.us
Phone: (435)586-4231
Fax: (435)586-2789

CC: Bob Morgan, John Mabey